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5 IN THE UNITED STATES BANKRUPTCY COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7

8 In Re:

9 Rodolfo M. Masangkay  
10 Asiatica E. Masangkay

Debtors.

11  
12 Rodolfo M. Masangkay  
13 Asiatica E. Masangkay,

14 Debtors.

15 v.

16 Key Bank National Association and LVNV  
17 Funding, LLC

18 Defendants.

No. 09-13671-MLB

Adversary No. 11-01207-MLB

CERTIFICATE OF SERVICE

19 I, Angella R. Čulić, certify that at all times mentioned herein, I was and am a resident  
20 of the state of Washington, over the age of eighteen years, not a party to the proceeding or  
21 interested therein, and competent to be a witness therein. My business address is that of Leen  
22 & O'Sullivan, Seattle, Washington 98122.

23 On, March 10, 2011, I caused a true and correct copy of the Complaint and Summons  
24 to be served upon the following parties in the manner indicated below:  
25  
26  
27  
28

CERTIFICATE OF SERVICE - 1



Leen & O'Sullivan, PLLC  
520 EAST DENNY WAY  
SEATTLE, WASHINGTON 98122  
(206) 325-6022  
FAX (206) 325-1424

# Service List

LVNV Funding, LLC Registered Agent: The Corporation Trust Company of Nevada 311 S. Division St. Carson City, NV 89703	<input type="checkbox"/> Hand Delivery/Messenger <input type="checkbox"/> Electronic Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> U.S. Mail
Key Bank National Association c/o Daniel Lee Hembree Bishop White Marshall & Weibel PS 720 Olive Way Ste 1201 Seattle, WA 98101-1878	<input type="checkbox"/> Hand Delivery/Messenger <input type="checkbox"/> Electronic Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> U.S. Mail

DATED this 10<sup>th</sup> day of March, 2011.

Angella R. Čulić  
Angella R. Čulić



**UNITED STATES BANKRUPTCY COURT**  
Western District of Washington

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In Re:

Rodolfo M. Masangkay and Asiatica E. Masangkay,  
Debtor(s).

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Case Number: 09-13671-MLB

**Adversary Case Number: 11-01207-MLB**

(ALL DOCUMENTS REGARDING THIS MATTER  
*MUST* BE IDENTIFIED BY BOTH ADVERSARY AND  
BANKRUPTCY CASE NUMBERS)

Rodolfo M. Masangkay and Asiatica E. Masangkay,  
Plaintiff(s),

v.

Key Bank National Association and LVNV Funding, LLC,  
Defendant(s).

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**SUMMONS AND NOTICE OF PRETRIAL CONFERENCE IN AN ADVERSARY PROCEEDING**

**YOU ARE SUMMONED** and required to file a motion or answer to the complaint with the Clerk of the Bankruptcy Court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

Address of Clerk: U.S. Bankruptcy Court  
700 Stewart St, Room 6301  
Seattle, WA 98101

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney (or plaintiff if not represented by counsel).

Name and Address of Plaintiff's Attorney (or Plaintiff not represented by counsel):

Sheila M O'Sullivan  
Leen & O'Sullivan PLLC  
520 E Denny Way  
Seattle, WA 98122-2100

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place:

**Date and Time: June 10, 2011 at 08:45 AM**

**Address: U.S. Courthouse, Room 7106, 700 Stewart St, Seattle, WA 98101**

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Mark L. Hatcher  
Clerk, U.S. Bankruptcy Court

BY: /s/ Kim E. Kelley  
Deputy Clerk



**Date of Issuance: March 9, 2011**

*Summons must be served within 14 days of date of issuance, Fed. R. Bankr. P. 7004(e). Plaintiff shall file a certificate of service within 14 days after service has been effected. W.D.Wash.Local Bankr. Rule 7004-1.*



IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON

In Re:

Rodolfo M. Masangkay  
Asiatica E. Masangkay

Debtors.

Rodolfo M. Masangkay  
Asiatica E. Masangkay,

Debtors.

v.

Key Bank National Association and LVNV  
Funding, LLC

Defendants.

No. 09-13671-MLB

Adversary No. 11-01207-MLB

COMPLAINT FOR DETERMINATION OF  
SECURED STATUS PURSUANT TO  
11 U.S.C. 506

Comes now the Plaintiffs, Rodolfo M. and Asiatica E. Masangkay, by and through their attorney, Sheila O'Sullivan, and files the within Complaint for Determination of Secured Status, of which the following is a statement:

**I. PRELIMINARY STATEMENT**

1.1 This is an action by the Debtors to determine the extent to which the Defendant's claim can be secured by Debtor's primary residence located at 409 Maple Ave. NW, Renton, WA 98055. Tax Assessor's Parcel No. 420240-0325-08 and legal description:



1 LOT 19, BLOCK 4, LATMER'S LAKE PARK ADDITION, ACCORDING  
2 TO THE PLAT THEREOF RECORDED IN VOLUME 18 OF PLATS,  
3 PAGE 63, IN KING COUNTY, WASHINGTON.

4 1.2 This action is filed pursuant to 11 USC § 506.

5 **II. JURISDICTION**

6 2.1 This Court has jurisdiction over this proceeding pursuant to 28 USC  
7 §157(b)(2)(K). This is a core proceeding.  
8

9 **III. PARTIES**

10 3.1 Plaintiffs, Rodolfo M. and Asiatica E. Masangkay, are a married couple  
11 residing at 409 Maple Ave. NW, Renton, WA 98055. Plaintiffs filed for relief under  
12 Chapter 13 of the U.S. Bankruptcy Code on April 17, 2009, case number 09-13671-MLB.  
13

14 3.2 Defendant Key Bank National Association (hereinafter "Key Bank") is an Ohio  
15 corporation doing business in the State of Washington. Defendant LVNV Funding, LLC  
16 (hereinafter "LVNV") is a Delaware corporation doing business in the State of Washington.  
17

18 **IV. FACTS**

19 4.1 Defendant Key Bank or LVNV holds a third deed of trust on the residence  
20 located at 409 Maple Ave. NW, Renton, WA 98055. Said real property is currently held in  
21 the name of Rodolfo M. and Asiatica E. Masangkay, a married couple.

22 4.2 On April 17, 2009, Plaintiff filed for relief under Chapter 13 of the U.S.  
23 Bankruptcy Code.

24 4.3 At the time of the Petition filing, the alleged balance of the third deed of trust  
25 was estimated to be \$86,472.93.  
26  
27  
28



1           4.4     Counsel for Key Bank believes that the note and deed of trust for this alleged  
2 third place lien has been sold and assigned to LVNV Funding, not merely assigned for  
3 collection. No evidence of that assignment is available, so both parties have been named.  
4

5           4.5     Pursuant to Order of this Court dated January 6, 2011, Key Bank NA/LVNV's  
6 claim was disallowed as being invalid and a "phantom" loan duplicative of the second deed of  
7 trust held by Key Bank. Therefore, Key Bank/LVNV should not be permitted to retain its lien  
8 which represents a non-existent debt.  
9

10           **WHEREFORE**, the Plaintiff respectfully requests that this Court enter a judgment  
11 disallowing any secured interest to Defendant, quieting title in the property against Key  
12 Bank and/or LVNV Funding as to its third deed of trust on the property represented by loan  
13 number 4731500148563 and for such other relief as may be necessary and proper under the  
14 law.  
15

16  
17 DATED this 4<sup>th</sup> day of March, 2011.  
18

19                               /s/Sheila M. O'Sullivan  
20                               Sheila M. O'Sullivan  
21                               Attorney for Debtor

WSBA #28656

